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File No. 039610-0001

LATHAM & WATKINS LLP

August 17, 2007

VIA FEDEX

CALIFORNIA ENERGY COMMISSION
Attn: Docket No. 07-AFC-1
1516 Ninth Street, MS-4
Sacramento, California 95814-5512

DOCKET 07-AFC-1	
DATE	AUG 17 2007
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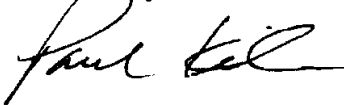
Re: Victorville 2 Hybrid Power Project: Docket No. 07-AFC-1

Dear Sir/Madam:

Pursuant to California Code of Regulations, title 20, sections 1209, 1209.5, and 1210, enclosed herewith for filing please find Applicant's Objections to California Unions for Reliable Energy Data Requests, Set Two.

Please note that the enclosed submittal was filed today via electronic mail to your attention and to all parties on the CEC's current electronic proof of service list.

Very truly yours,



Paul E. Kihm
Senior Paralegal

Enclosure

cc: CEC 07-AFC-1 Proof of Service List (w/encl. via e-mail)
Michael J. Carroll, Esq. (w/encl.)

STATE OF CALIFORNIA
ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

In the Matter of:)	Docket No. 07-AFC-1
)	
Application for Certification,)	OBJECTIONS TO CALIFORNIA UNIONS
for the VICTORVILLE 2 HYBRID POWER)	FOR RELIABLE ENERGY DATA
PROJECT)	REQUESTS, SET TWO
by the City of Victorville, California.)	
_____)	

Pursuant to Title 20, California Code of Regulations, Section 1716(f), the City of Victorville, California ("Applicant") hereby objects to certain of California Unions for Reliable Energy ("CURE") Data Requests, Set Two (#1 – 153). Where an objection follows multiple data requests, the objection applies to all of the identified data requests.

Data Request No. 7: Please provide an estimate for uncontrolled and controlled fugitive dust emissions for VV2 Project operations, including entrained road dust from vehicle travel on on-site and offsite paved and unpaved roads and wind erosion from the power block area, solar field, and unpaved roads. Please include these emissions in a revised ambient air quality modeling for VV2 Project operations.

Objection: Estimating fugitive emissions and revising the ambient air quality modeling for the project would be extremely burdensome. Furthermore, given the small number of vehicles associated with project operations, and the measures that will be implemented to control fugitive dust, the additional emissions associated with the identified sources would be minimal, and would not materially alter the existing analysis of project impacts. Thus, the burden that would be imposed on Applicant in providing the requested information is not warranted in light of the limited informative value of the requested information.

Data Request No. 12: Please estimate exhaust emissions from vehicle travel for VV2 Project operations, including commuter vehicles, on-site O&M vehicles, and delivery and waste disposal trucks. Please include these emissions in a revised operational ambient air quality modeling.

Objection: Revising the ambient air quality modeling for the project would be extremely burdensome. Furthermore, given the small number of vehicles associated with project operations, the additional emissions associated with the identified sources would be minimal, and would not materially alter the existing analysis of project impacts. Thus, the burden that would be imposed on Applicant in providing the requested information is not warranted in light of the limited informative value of the requested information.

Data Request No. 14: Please provide a conservative estimate for secondary PM10 formation from cooling tower ammonia emissions due to drift and ammonia stripping from the circulating water.

Data Request No. 15: Please provide a conservative estimate for secondary PM10 formation due to ammonia slip from the SCR system.

Data Request No. 16: Please model atmospheric deposition of secondary PM10 to determine nitrogen deposition on the soils of the desert ecosystem in the Project's vicinity.

Data Request No. 135: Please provide an analysis of nitrogen deposition on soils due to Project emissions and discuss the potential for adverse effects on vegetation and wildlife and the existing desert ecosystem.

Objection: Providing the requested information, including conducting the requested modeling, would be extremely burdensome. Furthermore, because there is not a generally agreed upon methodology for estimating secondary PM10 formation from cooling tower ammonia emissions, any attempt to do so would produce information that was highly speculative. Thus, the burden that would be imposed on Applicant in providing the requested information is not warranted in light of the limited informative value of the requested information.

Data Request No. 17: Please provide a revised top-down LAER/BACT for the Project's cooling demand including an analysis of dry cooling and dry/wet hybrid systems.

Objection: Clean Air Act section 169 (42 U.S.C. section 7479) and 40 C.F.R. section 52.21(b)(12) define BACT as "an emissions limitation (including a visible emission standard) based on the maximum degree of reduction for each pollutant subject to regulation under Act which would be emitted from any proposed major stationary source ... which the Administrator, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant." This definition makes it clear that a BACT/LAER analysis is limited to evaluating emission controls that can be applied to the project as designed, and does not extend to a re-design of the project. Thus, the requested analysis is not warranted.

Data Request No. 30: Please quantify annual emissions of greenhouse gases, including CO₂, CH₄, N₂O and SF₆ for both the construction phase and operational phase of the VV2 project.

Objection: Applicant objects to providing the requested information for the construction phase of the project. Determining the greenhouse gas emissions for the numerous pieces of construction equipment would be extremely burdensome. Furthermore, given the nature of environmental impacts that may be associated with greenhouse gas emissions, short-term increases in greenhouse gas emissions, such as those associated with construction, are irrelevant. Thus, the burden that would be imposed on Applicant in providing the requested information is not warranted in light of the limited informative value of the requested information.

Data Request No. 36: Please discuss the cumulative impacts due to toxics emissions from the VV2 Project, the HDPP, and the SLCA. Please provide a quantitative health risk assessment for the combined emissions including cancer and non-cancer acute and chronic health impacts.

Objection: Providing the requested analysis would be extremely burdensome. Furthermore, health risks such as cancer and non-cancer acute and chronic health impacts diminish rapidly with distance from the source. Given the distance between the VV2 Project, the HDPP, and the SCLA, it is very unlikely that any cumulative impacts would occur. Thus, the burden that would be imposed on Applicant in providing the requested information is not warranted in light of the limited informative value of the requested information.

Data Request No. 49: Please model the potential airborne ammonia concentrations associated with the accidental catastrophic release of ammonia during delivery (*e.g.*, with the U.S. EPA computer model RMP*COMP). Please determine out to which distance from the accident airborne ammonia concentrations would exceed the significance criterion and determine how many people would potentially be affected along the transportation routes.

Objection: Section 6.7.4.3 of the Application for Certification contains an off-site consequence analysis for an ammonia release during truck unloading at the facility. Applicant, therefore assumes that the request that Applicant model a release of ammonia “during delivery” refers not to a release during unloading, but instead to a release somewhere along the delivery route. There are, of course, an almost infinite number of scenarios that could be modeled, and Applicant objects to the data request in the grounds that it is vague and ambiguous, and any attempt to respond would be extremely burdensome. Furthermore, given the remote likelihood of such an accident occurring, as discussed in the AFC, understanding the consequences of such an event would be of little value. Thus, the burden that would be imposed on Applicant in providing the requested information is not warranted in light of the limited informative value of the requested information.

Data Request No. 83: For each vertebrate species listed in AFC Appendix 5, please list:

- a. Whether the species was detected onsite or offsite (or both);
- b. the vegetation community (or communities) in which the species was detected;
- c. the relative abundance of the species detected; and
- d. whether the species’ occurrence was localized or widespread. If relative abundance data is unavailable, please estimate using a qualitative scale.

Objection: Applicant has provided the requested information for all sensitive species identified under applicable laws and regulations. Applicant objects to providing the requested information for all species, regardless of any special status on the basis that doing so would be extremely burdensome and of very limited informative value since any impacts to such species would not be significant project impacts even if they did occur.

Subject to the foregoing objections, Applicant will provide the requested information on or before August 29, 2007.

DATED: August 17, 2007

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael J. Carroll", written in a cursive style.

Michael J. Carroll
of LATHAM & WATKINS LLP
Counsel to Applicant

**STATE OF CALIFORNIA
ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION**

In the Matter of:)	Docket No. 07-AFC-1
)	
Application for Certification,)	ELECTRONIC PROOF OF SERVICE
for the VICTORVILLE 2)	LIST
HYBRID POWER PROJECT)	
by the City of Victorville)	(revised June 14, 2007)
)	
)	

☒ Transmission via electronic mail and by depositing one original signed document with FedEx overnight mail delivery service at Costa Mesa, California with delivery fees thereon fully prepaid and addressed to the following:

DOCKET UNIT

CALIFORNIA ENERGY COMMISSION

Attn: DOCKET NO. 07-AFC-1
1516 Ninth Street, MS-4
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docket@energy.state.ca.us

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VICTORVILLE II HYBRID POWER PROJECT
CEC Docket No. 07-AFC-1

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VICTORVILLE II HYBRID POWER PROJECT
CEC Docket No. 07-AFC-1

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DECLARATION OF SERVICE

I, Paul Kihm, declare that on August 17, 2007, I deposited the required original signed copy of the attached:

**OBJECTIONS TO CALIFORNIA UNIONS FOR RELIABLE ENERGY DATA REQUESTS,
SET TWO**

with FedEx overnight mail delivery service at Costa Mesa, California with delivery fees thereon fully prepaid and addressed to the California Energy Commission. I further declare that transmission via electronic mail was consistent with the requirements of California Code of Regulations, title 20, sections 1209, 1209.5, and 1210. All electronic copies were sent to all those identified on the Proof of Service List above.

I declare under penalty of perjury that the foregoing is true and correct. Executed on August 17, 2007, at Costa Mesa, California.



Paul Kihm